

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

SARAH REMER and CODY REMER,

Plaintiffs,

v.

**FINANCIAL RECOVERY SERVICES,
INC.,**

Defendant.

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EP-11-CA-142-FM

ORDER ENTERING NOTICE OF VOLUNTARY DISMISSAL

On this day, the court considered Plaintiffs Sarah Remer and Cody Remer's ("Plaintiffs") "Notice of Voluntary Dismissal" ("Notice of Dismissal") [ECF No. 13], filed August 23, 2011. Plaintiffs request the court to dismiss with prejudice their cause of action against Financial Recovery Services, Inc. ("Defendant"). Federal Rule of Civil Procedure 41 ("Rule 41") provides that a plaintiff may voluntarily dismiss a cause of action, if the opposing party has filed an answer or moved for summary judgment, by filing "a stipulation of dismissal signed by all parties who have appeared."¹ An answer has been filed in this case, but neither Defendant nor its attorney signed Plaintiffs' Notice of Dismissal. Therefore, the Notice of Dismissal does not comply with Rule 41. However, upon inquiry by the court to all parties, it is clear that Defendant does not oppose Plaintiffs' Notice of Dismissal. Accordingly, the court enters the following Orders:

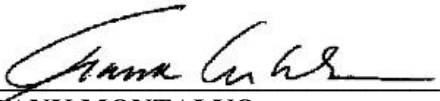
1. Plaintiffs' "Notice of Voluntary Dismissal" [ECF No. 13] is **GRANTED**.
2. This case is **DISMISSED WITH PREJUDICE**.

¹ Fed. R. Civ. P. 41(a)(1)(A)(ii).

3. All pending motions, if any, are **DENIED** as **MOOT**.
4. Each party **SHALL** bear its own costs and attorneys' fees.
5. The Clerk of the Court is instructed to **CLOSE** this case.

SO ORDERED.

SIGNED this **25th** day of **August, 2011**.



FRANK MONTALVO
UNITED STATES DISTRICT JUDGE